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EXAMINER	
GREGG, MARY M	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/592,020	INNES, IAN ROSSEL CAPLE	
	Examiner	Art Unit	
	MARY GREGG	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32 and 35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32 and 35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *September 7, 2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

MMG

DETAILED ACTION

1. The following is a Non-Final Office action in response to communication received. Claims 33-34 have been canceled. Claims 1, 4-7, 18-22, 26-27 and 29-32 have been amended. Claim 35 has been added. Therefore, claims 1-32 and 35 are pending and addressed below.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter of Claim 9, See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

The subject matter of Claim 9 uses the terminology "second provider" for which has not been shown in the drawings or described in the detailed description preceding the claims.

The subject matter of Claim 12 uses the terminology "third fixed portion" which has not been shown in the drawings or described in the detailed description preceding the claims.

The subject matter of Claim 26 uses the terminology "third amount" and "fourth amount" which has not been shown in the drawings or described in the detailed description preceding the claims.

In reference to the objections stated above for lack of antecedence in the specification, according to MPEP 2111, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in

the claims my be ascertainable by reference to the description", 37 CFR 1.75 (d)(1). The claims as filed in the original specification are part of the disclosure and therefore if an application as originally files contains a claim disclosing material not disclosed in the remainder of the specification, the applicant may amend the specification to include the claimed subject matter.

Claim Objections

3. Claims 3-4, 21, 27 and 31-32 are objected to because of the following informalities:

In reference to Claim 3:

Claim 3 objected to because of the following informalities: In the body of Claim 3 the applicant uses the terminology, "capitalising", which is an error in spelling. Appropriate correction is required.

In reference to Claim 4:

Claim 4 is objected to for comprising a product with a method. In order to avoid mixing classes and 112, 2nd rejection, the examiner respectfully request the statutory class of method is replaced with "a processor to execute instructions"... and the functional descriptive material "program" be replaced with a product, to avoid mixing statutory classes.

In reference to Claim 21:

Claim 21 is objected to for comprising a product with a method. In order to avoid mixing classes and 112, 2nd rejection, the examiner respectfully request the statutory class of method is replaced with "one processor to execute

instructions of generating"... and the functional descriptive material "program" be replaced with a product comprising a set of instructions, to avoid mixing statutory classes.

In reference to Claim 27 and 31-32:

Claims 27, 31 and 32 are objected to because of the following informalities: In the body of Claims 27, 31 and 32 the applicant uses the terminology, "capitalised", which is an error in spelling. Appropriate correction is required.

In reference to Claims 4, 21 and 30:

Claims 4, 21 and 30 cites the limitation "code for". The examiner is not sure how "code" actually does some of these functions, like "code for securing a loan". The specification does not support how a computer that really "secures" a loan. Is the code actually doing the functions or is this something a human would do with the computer merely assisting?

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 9-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one

skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In reference to Claim 9:

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Claim 9 cites that steps a-e are performed by a "second provider", it is unclear to the examiner as to how a "second provider" can perform the afore mentioned steps.

Step a: Obtain a loan: how can a **provider** obtain a loan, providers supply loans and do not obtain them, according to the specification the person is obtaining the loan against an equity asset, how is a "second provider" able to do so?

Step b: Periodically pay the first provider: Is the provider a servicing company, a bank that provides equity loans and investment products or is the provider also on the loan with the person, is the provider supplying the funds for the payment or is the providing a security company managing the investment product and paying the payments for the person as a representative of that person;

Step c: Paying payments: A provider usually is a lender how is the provider paying payments to the person, or is the provider a lender that also manages the investment product, banks do offer both services.

Step d: charging the per in regard to each periodic payment a charge equal to fixed proportion of said periodic payment-

Step e: Investing a residual of the loan in an investment vehicle

With respect to steps d and e see examiners statements for steps a-c.

These steps are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

In reference to Claims 10-15:

Claims 10-15 depend upon claim 9 and contain the same deficiencies, therefore claims 10-15 are also rejected under 35 USC 112, 1st paragraph for enablement.

In reference to Claim 12:

Claim 12 cites the limitation of a third fixed proportion, but neither the written description, drawings or preceding claims give context to the third fixed portion. Therefore, the examiner is not able to determine as to what the limitation is applied to and the claim is not enabled.

In reference to Claim 13:

Claim 13 cites the limitation of a "range of 0.05% and 0.25%", but does not supply a context as to what the range applies to. Therefore, the claim lacks enablement. Claim 13 also cites the limitation of "third fixed proportion", see rejection of claim 12 above. Claim 13 is dependent upon claim 12 and is therefore also rendered not enabled under 35 USC 112, 1st paragraph, see rejection of claim 12 above.

In reference to Claim 14:

Claim 14 is dependent upon claim 12 and is therefore also rendered not enabled under 35 USC 112, first paragraph, see rejection of claim 12 above.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 3-15, 18-22, 26-32 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to Claims 1:

Claim 1 recites the limitation "term" in lines 6 and 14. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 3:

Claim 3 recites the limitation "term" in line 6. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claims 4 and 6:

Claims 4 and 6 recite the limitation "term" in line 14. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 5:

Claim 5 recites the limitation "term" in line 12. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 7:

Claim 7 recites the limitation "term" in lines 5 and 15. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 8:

Claim 8 recites the limitation "term" in line 2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 9:

Claim 9 recites the limitation "second provider" in lines 2. There is insufficient antecedent basis for this limitation in the specification. See specification objection above. For examination purposes the examiner is defining the limitation to be an entity capable of providing a loan and applying the residual of the loan to an investment product for the borrower (person) and paying the proceeds of the investment product to the borrower (person).

In reference to Claims 10-15:

Claims 10-15 depend upon claim 9 and therefore contain the same deficiencies and are also rejected under 35 USC 112, 2nd paragraph.

In reference to Claim 11:

Claim 11 recites the limitation "second fixed proportion" in line 4. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is construing the proportion to be the amount applied to a second lien as claim 9 is directed toward a second provider which the examiner has defined as bank that provides equity liens and investment services.

In reference to the limitation "first fixed proportion" it is unclear to the examiner given the context of the claim as to whether the proportions are applying to the interest rates on the loan or loans (first and second equity liens) or whether the interest rates are referring to the investment products (first proportion applied to a fixed investment product and the second proportion applied to a variable interest rate investment product). For examination purposes the examiner is defining the proportions to be referring to a first lien at one rate and a second lien at a second rate.

In reference to Claim 12:

Claim 12 recites the limitation "third fixed portion" in line 3. There is insufficient antecedent basis for this limitation in the written description. For examination purposes the examiner is defining the limitation to be an additional amount is paid that is not part of the periodic payment, but rather a payment toward another investment vehicle.

In reference to Claim 13:

Claim 13 recites the limitation "range of 0.05% to .25%" but does not cite with respect to what the range is being applied. Is it being applied to the principal due, the payment due, the investment payment due. There is no context provided for the examiner to apply the range to. For examination purposes the examiner is defining the context of the range to be with respect to the principle owed on a lien.

In reference to Claim 14:

Claim 14 is dependent upon claim 12 and is therefore also rendered indefinite under 35 USC 112, second paragraph, see rejection of claim 12 above.

In reference to Claim 18:

Claim 18 recites the limitation "term" in lines 5 and 17. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claims 19 and 29:

Claims 19 and 29 recite the limitation "term" in lines 6 and 17. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 20:

Claim 20 recites the limitation "term" in lines 6 and 18. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 21:

Claim 21 recites the limitation "term" in lines 9 and 20. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 22:

Claim 22 recites the limitation "term" in lines 22. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 26:

Claim 26 recites the limitation "term" in line 21. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

Claim 26 recites the limitation "third amount" and "fourth amount" in lines 11-12 and 16 with respect to the limitation "third amount", in lines 13-14 and 17-18 with respect to the limitation "fourth amount". There is insufficient antecedent basis for this limitation in the written description. It is unclear as to if the applicant is referring on the limitation "third and fourth amount" as to whether the applicant is referring to an equity lien or a line of credit against the equity above the equity lien. For examination purposes the examiner is construing the third and fourth amount to be funds withdrawn from the equity product to be utilized on separate investment products.

In reference to Claim 27:

Claim 27 recites the limitation "term" in lines 5 and 15. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 30:

Claim 30 recites the limitation "term" in lines 10 and 21. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

Additionally Claim 30 recites in the preamble that the claim is directed toward the statutory category of a system. However, the body of claim 30 comprises of a plurality of "modules" and thus is directed towards functional descriptive material. Therefore, it is not clear how a plurality of "modules" constitutes a system. Clarification is required. For examination purposes, the examiner has construed the system to contain a combination of software and hardware elements.

In reference to Claim 32:

Claim 32 recites in the preamble that the claim is directed toward a "plurality of inter-related application program modules" which does not describe a statutory category. The body of claim 32 comprises of a series of "code" which encompasses software per se and thus is directed towards functional descriptive material. It is not clear to the examiner as whether the invention is directed toward a computer implemented method or an apparatus performing the computer readable instructions. Clarification is required. For examination purposes, the examiner has construed the invention to be a system containing a combination of software and hardware elements.

In reference to Claim 31:

Claim 31 recites the limitation "term" in lines 8 and 19. There is insufficient antecedent basis for this limitation in the claim. For examination

purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 32:

Claim 32 recites the limitation "term" in lines 7 and 18. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

In reference to Claim 35:

Claim 35 recites the limitation "term" in line 20. There is insufficient antecedent basis for this limitation in the claim. For examination purposes the examiner is defining the limitation to be equivalent to the limitation "defined term".

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 6-19, 22-25, 27, 30, 32 and 35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In reference to Claims 6-7, 18-19, 22, 27 and 35:

Claims 6-7, 18-19, 22, 27, 30, 32 and 35 are directed toward the statutory category of a method (process), however according to Supreme Court precedent and recent Federal Circuit decisions, in order to be statutory under 35 USC 101 the process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or

materials to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under § 101 and is rejected as being directed toward non-statutory subject matter.

As example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter being transformed, for example by identifying the material being changed to a different state. (Diamond v. Diehr, 450 US 175, 184 (1981); Parker V. Flook, 437 US 584, 588 n.9 (1978); gottschalk v. Benson, 409 US 63, 70 (1972); Cochrane v Deener, 94 US 780, 787-88 (1876)). Applicant is also directed to MPEP § 2173.05p, providing guidance with respect to reciting a product and process in the same claim and MPEP § 2111.02 [R3] providing guidance with respect to the effect of limitations within the preamble of a claim.

In reference to Claims 8-17, 23-25 :

Claims 8-17 depend upon claim 7 and do not cure the deficiencies cited above. Therefore claims 8-17 are also rejected under 35 USC 101.

Claims 23-25 depend upon claim 22 and do not cure the deficiencies cited above. Therefore claims 23-25 are also rejected under 35 USC 101.

Claim 28 depend upon claim 28 and do not cure the deficiencies cited above. Therefore claim 28 is also rejected under 35 USC 101.

In reference to Claim 30:

Claim 30 recites a system comprising of a "plurality of modules". As discussed above with regards to 35 USC 112, second paragraph, rejections, these "module" limitations are functional descriptive material. Further claim 30 does not recite that these "modules" are recorded on a computer readable medium, employed as a computer component, etc. Therefore, it is respectfully submitted that claim 30 is non-statutory because per MPEP 2106.01, descriptive material is non-statutory when claimed as descriptive material per se and not functionally and structurally interrelated to a medium.

In reference to Claim 32:

Claim 32 recite in the preamble that the invention is directed toward a "plurality of inter-related computer application program modules", which are not defined in any statutory category. Additionally, the body of the claims consist of a plurality of "code" that is not recited as being recorded on a computer readable medium employed as a computer component, etc. Therefore, it is respectfully submitted that claim 32 is non-statutory because per MPEP 2106.01, descriptive material is non-statutory when claimed as descriptive material per se and not functionally and structurally interrelated to a medium.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-2 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt) and in view of US Pub No. 2003/0154161 A1 by Stahl et al. (Stahl) and further in view of Official Notice.

In reference to Claim 1:

(Currently Amended) A computer-based system for providing equity based benefits to a person dependent upon equity in property owned by the person, said system comprising: a memory for storing a program; and a processor for executing the program ((Alt) Abstract, Col 2 lines 40-50, Official notice is taken that it is well known in the industry for computer system to consist of memory for storage, and a processor for executing a program), said program comprising:
(a) code for securing a loan secured by a proportion of the equity, the loan having a principal value for a defined term ((Alt) Col 2 lines 27-29, Col 3 lines 25-30, Col 6 line 62; where home equity loan simple interest rate assumed to be 11.5 % for 15 years);
(b) code for repaying the loan by periodically paying a simple an interest charge determined on a simple interest basis being a fixed proportion of the principal

((Alt) see table 1-7; where term for repayment is 15 years bi-weekly, Col 6 lines 60-66);

(c) code for investing a residual of the loan ((Alt) Fig. 2 ref # 16; Fig. 3 ref # 23; Col 6 lines 28-33; line 63; where borrowed money in invested in IRA at 8.5 % interest which grows at Compound rate; Examiner takes Official Notice that IRA can have range of investment choices such as CD, annuities, mutual funds, etc.)

(d) code for, if an equity-based retirement savings option is elected, accumulating earnings from the invested residual of the loan ((Alt) see Table 1-8; where last row at 15 years; saving from IRA greater than loan ($50.03)); and

(e) code for, if a life-expectancy retirement annuity option is elected ((Alt) Col 2 lines 65-67),...;

Alt does not teach:

...a memory for storing a program; and a processor for executing the program ...making a periodic payment from the residual of the loan wherein the principal value of the loan becomes due for repayment at the end of the term

Stahl teaches:

...making a periodic payment from the residual of the loan wherein the principal value of the loan becomes due for repayment at the end of the term ((Stahl) para 0017 lines 7-20, para 0018 lines 4-18).

Although Alt does not teach a "memory for storage" or a "processor for executing a program, Official notice is taken that it is well known in the industry for computer system to consist of memory for storage, and a processor for executing a program. Additionally, Alt does not teach making periodic payments

toward the annuity, however, Alt does teach the annuity investment product purchased through the equity lien. Official Notice is taken that it is well-known in the industry that annuities are paid by two main methods either a lump sum, a structured payment or a combination of both. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include a structure payment on the annuity by the equity lien as taught by Stahl with the teachings of Alt.

With respect to the limitation, principal loan value due for repayment at the end of the term. Although Alt does not teach this feature, Official notice is taken that balloon payments are a well-known loan structure feature. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a known technique to a known method for improvement to yield predictable results.

In reference to Claim 2:

(Original) A system according to claim 1 (see rejection of claim above), wherein: the memory is configured as a plurality of memory modules; the program is configured as a plurality of inter-related program modules stored in corresponding said memory modules; and the processor is configured as a plurality of processor modules for executing the program modules, wherein at least some of the plurality of processor modules adapted to communicate over a network ((Alt) FIG. 1; Abstract, Col 2 lines 20-35, 40-45)

In reference to Claim 4:

The method of Claim 4 corresponds to the method of Claim 1, therefore, method of Claim 4 has been analyzed and rejected as per previously discussed with respect to Claim 1. The feature in claim 4 that is separate from claim 1 is a computer program product including a computer readable medium. Although Alt does not teach a computer readable medium, Alt does teach a computerized method. Official notice is taken that it is well known in the industry for computer system to encompasses software on a computer readable medium.

In reference to Claim 5:

The method of Claim 5 corresponds to the method of Claim 1, therefore, method of Claim 5 has been analyzed and rejected as per previously discussed with respect to Claim 1. The feature in claim 5 that is separate from claim 1 is means for implementing the method steps which has been suggested by Alt ((Alt) Abstract) by utilizing a computer system and method.

In reference to Claim 6:

(Currently Amended) A method for providing equity based benefits to a person dependent upon equity in property owned by the person, said method being implemented on a computer based system comprising at least one program running on a corresponding at least one computer platform ((Alt) Abstract, Col 2 lines 40-50), said method comprising the steps of: securing a loan secured by a proportion of the equity, the loan having a principal value for a defined term ((Alt) Col 2 lines 27-29, Col 3 lines 25-30, Col 6 line 62; where home equity loan simple interest rate assumed to be 11.5 % for 15 years); repaying the loan by periodically paying an interest charge determined on a

simple interest basis ((Alt) see table 1-7; where term for repayment is 15 years bi-weekly); investing a residual of the loan ((Alt) Fig. 2 ref # 16; Fig. 3 ref # 23; Col 6 lines 28-33; line 63; where borrowed money in invested in IRA at 8.5 % interest which grows at Compound rate; Examiner takes Official Notice that IRA can have range of investment choices such as CD, annuities, mutual funds, etc.); if an equity-based retirement savings option is elected, accumulating earnings from the invested residual of the loan((Alt) see Table 1-8; where last row at 15 years; saving from IRA greater than loan ($50.03)); and if a life-expectancy retirement annuity option is elected, making a periodic payment from the residual of the loan ((Alt) Col 2 lines 65-67),...;

Alt does not teach:

... wherein the principal value of the loan becomes due for repayment at the end of the term

Stahl teaches:

... wherein the principal value of the loan becomes due for repayment at the end of the term ((Stahl) para 0017 lines 7-20, para 0018 lines 4-18).

With respect to the limitation, principal loan value due for repayment at the end of the term. Although Alt does not teach this feature, Official notice is taken that balloon payments are a well-known loan structure feature. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a known technique as taught by Stahl to a known method for improvement to yield predictable results.

In reference to Claim 7:

(Currently Amended) A method of generating, for a person, periodic payments secured by equity in property of the person, the method comprising the steps of: (a) obtaining, from a first provider (bank; Col 1 lines 50-55, Col 2 lines 12-14) , a loan having a principal value for a defined term, wherein the loan is secured by the equity ((Alt) Col 2 lines 27-29, Col 3 lines 25-30, Col 6 line 62; where home equity loan simple interest rate assumed to be 11.5 % for 15 years); (b) repaying the loan by periodically paying, to the first provider over the term, an interest payment determined on a simple interest basis ((Alt) see table 1-7; where term for repayment is 15 years bi-weekly, Col 6 lines 60-66, note: borrowed money form equity is invested in IRA that could include time and economy sensitive investment instruments such as CD's; the examiner notes that relationship between simple and compound interest rate vary accordingly); (c) paying, to the person, the periodic payments (see Table 1-7; where term for repayment is 15 years bi-weekly); (d) charging the person, in regard to each said periodic payment, a charge determined on a simple interest basis (see tables 1-7 under interest charge; Col 2 lines 27-29, Col 3 lines 25-30, Col 6 line 62; where home equity loan simple interest rate assumed to be 11.5 % for 15 years); (e) investing a residual of the loan, in an investment vehicle yielding a return at a compound rate on said residual of the loan ((Alt) Fig. 2 ref # 16; Fig. 3 ref # 23; Col 6 lines 28-33; line 63; where borrowed money in invested in IRA at 8.5 % interest which grows at Compound rate; Examiner takes Official Notice that IRA can have range of investment choices such as CD, annuities, mutual funds, etc.); said residual of the loan being dependent upon the amounts paid in the steps (b)

and (c) and the amount received in the step (d); and (f) repaying, to the first provider at the end of the term, the principal of the loan (Col 2 lines 18-34, FIG3; Test 22 and 23 Col 5 lines 27-41, 62-67; Col 6 lines 1-13, 60-63).

In reference to Claim 8:

(Original) A method according to claim 7 (see rejection of claim 7 above), wherein the residual of the loan invested in the investment vehicle at any time during the term of the loan is equal to the principal of the loan less ((Alt) Col 3 lines 25-28),(i) the accumulated payments made in the steps (b) and (c) from the time the loan was obtained until said any time being considered, plus (ii) the accumulated charges (interest and fees) received in the step (d) from the time the loan was obtained until said any time being considered ((Alt) Tables 1-7 where the balance of the loan decreases as payments are applied; Examiner notes the residual of the loan invested in the investment vehicle per Alt is the entirety of the loan applied against the equity; Official Notice is taken that it is standard for a current loan principal amount during a term to be equal the previous principal of the loan less the payment which includes P&I of the loan).

12. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt), in view of US Pub No. 2003/0154161 A1 by Stahl et al. (Stahl) and in view of Official Notice, as applied to claim 1 above, and further in view of 2002/0184129 A1 Arena et al. (Are).

In reference to Claim 3:

The combination Alt, Stahl and Official Notice teach:

A system according to claim 1 (see rejection of claim 1 above), wherein if a rate of return of an investment in which said residual of the loan is invested according to the code ...

The combination Alt and Stahl does not teach

...(c) falls below a threshold, the program further comprises:

(f) code for **capitalising** an additional loan amount needed to compensate for as difference between the rate of return and the threshold; and (g) code for adding said additional loan to the principal of the loan to be repaid at the end of the term

Are and Official Notice teach:

...(c) falls below a threshold, the program further comprises:

(f) code for **capitalising** an additional loan amount needed to compensate for as difference between the rate of return and the threshold ((Are) Abstract lines 10-25, para 0026 lines 12-19, para 0163, para 0165 lines 13-19; FIG. 3, FIG. 4) and (g) code for adding said additional loan to the principal of the loan to be repaid at the end of the term.

Both the combination of Art, Stahl and Official Notice and Are teach retirement, annuities and investment funded by other assets. Are teaches that due to fluctuating value of investment products that are for the purpose of future payments, it is needful to provide a cushion for providing stability to annuity payment amounts during poor investment performance. Are teaches drawing from available assets in order to maintain the annuities existing payment. The combination of Art, Stahl and Official Notice teach using assets (equity) for funding retirement funds, annuities and investments. As both sets of prior art are

explicitly directed toward using assets for funding investment products pertaining to future payments it would have been obvious to one of ordinary skill in the art at the time of the invention include the teachings of Are of withdrawing from an asset pool (equity) to subsidize an annuity investment products during poor or reduced performance in order to stabilized future payments with the teachings of the combination of Art, Stahl and Official notice of using a specific asset for funding the same types of investment products.

With respect to the limitation, "adding said additional loan to the principal of the loan to be repaid at the end of the term", Official notice is taken that it is well known in the industry for various loan programs to allow multiple draws against underlying assets. Furthermore, in the mortgage industry it is standard for a loan to be repaid at the end of the term.

13. Claims 18-21 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt), and in view of Official Notice and further in view of 2002/0184129 A1 Arena et al. (Are).

In reference to Claim 18:

Alt teaches:

A method of generating, for a retiree, periodic payments secured by equity in the retiree's home, the method comprising the steps of: (a) obtaining, from a financier, a loan having a principal value for a defined term, wherein the loan is secured by the-equity in the retiree's home ((Alt) Col 2 lines 27-29, Col 3 lines 25-30, Col 6 line 62 where home equity loan simple interest rate assumed to be 11.5% for 15 years); b) repaying the loan by periodically paying, to the financier

over the term, an interest repayment determined on a simple interest basis ((Alt) see Table 1-7, Col 6, lines 60-66)

(d) charging the retiree, in regard to each said periodic payment, an interest charge determined on a simple interest basis ((Alt) Col 6 lines 60-66; where borrowed money from equity is invested in IRA, that could include time and economy sensitive instruments such as CD; Examiner notes that IRA an have a range of investment choices);

(e) investing a residual of the loan, in an investment vehicle yielding a return at a compound rate on said residual of the loan, said residual of the loan being dependent upon the simple interest payments to the financier in the step (b) ((Alt) Col 6 lines 28-33, 63 where borrowed money from equity invested in IRA at interest rate of 8.5% which grows at compound interest rate; Examiner notes that IRA an have a range of investment choices such as a mutual fund, etc.)... (c) and the simple interest charges paid by the retiree in the step (d) ((Alt) Table 1-8; payments comprise interest over time); and (f) repaying, by the retiree to the financier at the end of the term, the principal of the loan ((Alt) table 8)

Alt does not teach:

...(c) paying, to the retiree, the periodic payments;...and the periodic payments to the retiree in the step...

Are teaches:

...(c) paying, to the retiree, the periodic payments;...and the periodic payments to the retiree in the step...((Are) FIG. 1; para 0040, para 0042 lines 1-4, para 0043 lines 1-9)

Both the combination of Art and Official Notice and Are teach retirement, annuities and investment funded by other assets. Are teaches determining payments from the annuity amount based on common techniques for determining present value, which is funded with assets to provide the present value. Art teaches the use of equity funds to set up annuities, Official notice is taken that is is well known in the art that lump sum annuities can have various start dates, i.e. immediate or deferred. Are teaches drawing from available assets in order to maintain the annuities existing payment. The combination of Art and Official Notice teach using assets (equity) for funding retirement funds, annuities and investments. As both sets of prior art are explicitly directed toward using assets for funding investment products pertaining to future payments it would have been obvious to one of ordinary skill in the art at the time of the invention apply known techniques (teachings of Are of paying from annuity investment products to the owner) to a known method (the teachings of the combination of Art and Official notice) to yield predictable results.

Although the combination Alt and Official Notice do not teach the persons as being a retiree, the combination is explicitly directed toward retirement savings and investments. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to try by choosing from a finite number of identified, predictable solutions (retiree or nonretiree) with a reasonable expectation of success.

In reference to Claim 19:

The method of Claim 19 corresponds to the method of Claim 18, therefore, method of Claim 19 has been analyzed and rejected as per previously discussed with respect to Claim 18. The feature in claim 19 that is separate from claim 18 is the limitation of a service provider, Official Notice is taken that it is well known in the industry for third party intermediaries to manage investment accounts, a common example of this is Vanguard.

In reference to Claim 20:

The system of Claim 20 corresponds to the method of Claims 18 and 19, therefore, system of Claim 20 has been analyzed and rejected as per previously discussed with respect to Claims 18 and 19. The feature in claim 20 that is separate from claims 18 and 19 is means for implementing the method steps which has been analyzed and rejected as per previously discussed with respect to Claims 18 and 19. Alt provides the means for the method with a computer system ((Alt) Abstract).

In reference to Claim 21:

The combination of Alt, Are and Official Notice teach:

The computer program product of Claim 21 corresponds to the method of Claim 18, therefore, system of Claim 21 has been analyzed and rejected as per previously discussed with respect to Claims 18. The feature in claim 21 that is separate from claim 18 is computer program product having a computer readable medium for implementing the method steps which has been analyzed and rejected as per previously discussed with respect to Claim 18. Alt provides a method and computer system for the implementation of the cited rejection of

claim 18. Additionally, Are teaches computers, software products and systems ((Are) para 0036). Official notice is taken that it is well known for methods to be implemented on a computer through a computer program product. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply well known techniques to a known method to yield predictable results.

In reference to Claim 27:

Alt teaches:

(Currently Amended) A computer based method of generating, for a person, periodic payments secured by equity in property of the person, the method comprising the steps of:

(a) obtaining, from a first provider, a loan having a principal value for a defined term, wherein the loan is secured by the equity ((Alt)Col 2 lines 27-29, Col 3 lines 25-30, Col 6 lines 62);

(b) periodically paying, to the first provider over the term, an interest payment determined on a simple interest basis ((Alt) see table 1-7, Col 6 where home equity loan simple interest rate assumed to be 11.5% for 15 years);

(c) paying, to the person, the periodic payments ((Alt) see table 1-8);

(d) charging the person, in regard to each said periodic payment, an interest determined on a simple interest basis ((Alt) see tables 1-8);

(e) investing a residual of the loan, in an investment vehicle yielding a return at a compound rate on said residual of the loan, said residual of the loan being dependent upon the amounts paid in the steps (b) and (c) and the amount

received in the step (d) ((Alt) FIG. 2-3; Col 6, lines 28-33, 63; where borrowed money is invested in IRA at interest rate of 8.5% which grows at compound interest rate; Official Notice is taken that IRA can have a range of investment choices, CD, mutual funds, etc..); and

(f) repaying, to the first provider at the end of the term, the principal of the loan ((Alt) table 8); wherein: ...

Alt does not teach:

(g) if the compound rate in the step (e) falls below a first threshold, an additional loan amount needed to compensate for the reduced compound rate, and associated interest, is **capitalised** and added to the principal of the loan to be repaid to the first provider in the step (f)

Are and Official Notice teaches:

(g) if the compound rate in the step (e) falls below a first threshold, an additional loan amount needed to compensate for the reduced compound rate, and associated interest, is **capitalised** and added to the principal of the loan to be repaid to the first provider in the step (f) ((Are) Abstract lines 10-25, para 0026 lines 12-19, para 0163, para 0165 lines 13-19; FIG. 3, FIG. 4)

Both the combination of Art and Official Notice and Are teach retirement, annuities and investment funded by other assets. Are teaches that due to fluctuating value of investment products that are for the purpose of future payments, it is needful to provide a cushion for providing stability to annuity payment amounts during poor investment performance. Are teaches drawing from available assets in order to maintain the annuities existing payment. The

combination of Art and Official Notice teach using assets (equity) for funding retirement funds, annuities and investments. As both sets of prior art are explicitly directed toward using assets for funding investment products pertaining to future payments it would have been obvious to one of ordinary skill in the art at the time of the invention include the teachings of Are of withdrawing from an asset pool (equity) to subsidize an annuity investment products during poor or reduced performance in order to stabilized future payments with the teachings of the combination of Art, Stahl and Official notice of using a specific asset for funding the same types of investment products.

In reference to Claim 28:

(Original) A computer based method according to claim 27 (see rejection of claim 27 above), comprising the further step of: (h) if the compound rate in the step (e) rises above a second threshold, then accumulated surplus funds accruing in the investment vehicle are deducted from the principal of the loan to be repaid to the first provider in the step (f)rises above a second threshold, then accumulated surplus funds accruing in the investment vehicle are deducted from the principal of the loan to be repaid to the first provider in the step (f) ((Alt) FIG. 2, FIG. 4; Col 5 lines 12-13; is there more to pay on the primary mortgage, Alt teaches a threshold of PV>0)

In reference to Claim 29:

The system of Claim 20 corresponds to the method of Claim 27, therefore, system of Claim 30 has been analyzed and rejected as per previously discussed with respect to Claim 27. The feature in claim 29 that is separate from claim 27

is the means for implementing the method steps which has been suggested by Alt ((Alt) Abstract) by utilizing a computer system and method.

In reference to Claims 30-32:

The computer program product of Claims 30-32 corresponds to the method of Claim 27 and the mean for implementation of claim 29, therefore, the system of Claim 30 has been analyzed and rejected as per previously discussed with respect to Claims 27 and 29. The feature in claim 30 that is separate from claim 27 and 29 is a computer system comprising a plurality of modules with written instructions for the system to perform the corresponding method of claim 27. Alt teaches a method and computer system. Official Notices is taken that it is well known in the industry to provide instructions of the method through software for a computer system enabling the system to perform the method.

With respect to claims 31 and 32, both claims cite the same code, as the code corresponds with the method of claim 27, therefore, the computer program product of Claim 31 has been analyzed and rejected as per previously discussed with respect to Claim 27. The feature separate from claim 27 is the limitation of a computer readable medium. Although Alt does not teach a computer readable medium, Alt does teach a computerized method. Official notice is taken that it is well known in the industry for computer system to encompass software on a computer readable medium. The separate feature of claim 32 from claim 27 is the plurality of modules, which Alt suggest by teaching a computerized system and method.

14. Claims 22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt) and further in view of Official Notice

In reference to Claim 22:

(Currently Amended) A method of generating, for the benefit of a person and a service provider, periodic payments dependent upon equity in property of the person, the method comprising the steps of: (a) obtaining from a financier a loan secured by the equity, the loan having a principal value and being for a term defined by a number of periods ((Alt) Col 2 lines 27-29, Col 3 lines 25-30, col 6 lines 62, See table 1-7)(b) investing the loan in a first investment vehicle that yields a first return for each said period on the amount invested ((Alt) Col 6 lines 18-225); the method further comprising, for a current said period, the steps of:

(i) determining, in regard to the principal value, a first amount determined on a simple interest basis, and withdrawing said first amount from the residual of the loan invested in the first investment vehicle ((Alt) Col 5 test 11, 17, 22), and determining, in regard to the principal value, a second amount determined on a simple interest basis, and withdrawing said second amount from the residual of the loan invested in the first investment vehicle ((Alt) Col 6 lines 20-42, Col 5 test 11, 17, 22, prior teaches test to achieve PV, test 22 to check if current loan balance and IRA balance with mortgage satisfied. Alt teaches IRA limitation received and funds from equity sent to other financial vehicles, Additionally examiner takes official notice that IRA can have a range of investment choices);

(ii) paying the first amount to the financier (Col 5 lines 42-45, Table 8);

(iii) deducting a charge from said second amount, said charge comprising the benefit for the service provider ((Alt) FIG. 2, FIG. 3; Col 2 lines 39-44, Col 6 28-34, 63 borrowed money invested in IRA or other financial vehicles, Examiner takes Official Notice that it is well known for financial managers to enact a fee from the proceeds of a financial product return);

(iv) investing for the benefit of the person the residual of the second amount in an investment vehicle yielding a second return for the current period, said second return being lower than the first return ((Alt) Col 2 lines 36-44, Col 6 lines 18-35);

(c) repeating the steps (i) - (iv) for said number of periods ((Alt) Tables 1-8, Fig. 1-4; Col 5 lines 12-60) ; and

(d) repaying, by the person to the financier at the end of the term, the principal of the loan ((Alt) Table 8).

Alt does not teach the limitation where return on the second amount invested in an invest vehicle is less that the first return, however, Alt does teach that the investment vehicles can be IRA, savings accounts, securities investment accounts, insurance policy or an annuity or combinations of these products. Although, the second product might not have a lower return than the first, inherently one of the products would have a lower return, therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to try by choosing from a finite number of identified, predictable solution with a reasonable expectation of success.

In reference to Claim 24:

(Original) A method according to claim 22 (see rejection of claim 22 above), wherein in the step (iv) an additional investment is made in the investment vehicle yielding the second return for the current period ((Alt) Col 2 lines 37-41, Col 6 lines 28-33).

In reference to Claim 25:

(Original) A method according to claim 24 (see rejection of claim 24 above), wherein the additional investment is a savings contribution by the person ((Alt) Col 2 line 39)

15. Claims 23, 26 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt), and in view of Official Notice as applied to claim 22 above with respect to claim 23, and further in view of WAMU.com (Wamu) as annotated by examiner and herein referred to as (AE).

In reference to Claim 23:

The combination of Alt and Official Notice teach:

(Original) A method according to claim 22 (see rejection of claim 22 above), ...

The combination of Alt and Official Notice do not teach:

...wherein the financier is the service provider

Wamu and Official Notice teach:

...wherein the financier is the service provider((Wamu) pg. 2 sec 1)

Wamu teaches a lender that also is a service provider for investment products. Although Alt does not teach the lender being the service provider,

Official notice is taken that it is well known in the industry for lenders to be service provider with respect to financial products and provide the financing for the investment products as well (one stop shop). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teachings of Wamu with the teaching of Alt in order to provide complete services to the client (one stop shop).

In reference to Claim 26:

Alt teaches:

(Currently Amended) A method according to claim 25 (see rejection of claim 26 above), wherein following the step (d) the method comprises further steps of: (b) investing the ... loan and the funds accumulated in the investment vehicle yielding the second return in another investment vehicle that yields a return for each said period on the amount invested ((Alt) FIG. 2, FIG. 3; col 6 lines 23-35, where borrowed money is invested in more than one investment product); the method further comprising, for a current said period, the steps of:...

(i) determining, in regard to the principal value, a third amount determined on a simple interest basis, and withdrawing said third amount from the residual of the loan invested in the first investment vehicle ((Alt) FIG. 1 ref # 4, FIG. 3 ; test 22 and 23 Col 5 lines 37-41), and determining in regard to the principal value a fourth amount determined on a simple interest basis, and withdrawing said fourth amount from the residual of the loan invested in the first investment vehicle ((Alt) FIG. 1 ref # 4, FIG. 3 ; Col 2 lines 37-44, Col 6 lines 28-33, test 22 and 23 Col 5 lines 37-41);...

(iv) paying the residual of the second fixed proportion to the person; (c) repeating the steps (i) - (iv) for said number of periods ((Alt) Col 2 lines 38-40, Col 6 lines 28-33; Examiner notes the investment options are multiple including CD's and savings, therefore the funds invested are separated into different investment options and inherently contain more than one portion invested); and (d) repaying, by the person to the financier at the end of the term, the principal of the loan (see table 8)

Alt does not teach:

(a) obtaining from the financier another loan secured by equity in the persons home, the other loan having a principal value and being for a term defined by a number of periods ;

(b) investing the other loan and the funds ...

(ii) paying the third amount to the financier;

(iii) deducting a charge from said fourth amount, said charge comprising the benefit for the service provider;

Wamu and Official notice teach:

(a) obtaining from the financier another loan secured by equity in the persons home, the other loan having a principal value and being for a term defined by a number of periods ((Wamu) pg. 2 sec 1, Wamu offers equity liens and lines of credit against equity. Official Notice is taken that it is well known for loan products to have defined term which encompasses a specific number of periods);

(b) investing the other loan and the funds ((Wamu) pg. 2 sec 1)...

(ii) paying the third amount to the financier ((Wamu) pg. 2 sec 1; Official Notice is taken that loans require the lender to be paid separately for each account);

Wamu does not teach:

(iii) deducting a charge from said fourth amount, said charge comprising the benefit for the service provider;

Wamu teaches providing a equity lien products and providing financial services. Alt teaches providing equity lien products and financial services. Although, neither teaches multiple liens taken on singular underlying asset, Official Notice is taken that although rare for use because of risk factors and secondary markets, multiple equity loans are well-known. In point of fact most lenders teach away from the product because of the risk factor and the inability to sell the product on the secondary markets. However, multiple draw loans (equity lines) are taught by Wamu and allow as many number of amounts withdrawn from the underlying property asset as the equity available will allow, therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to simply substitute a line of credit with multiple equity liens to obtain a predictable result.

With respect to the limitation deducting a "fourth amount" to pay the fees. Wamu teaches lending and providing financial services (one stop shop). To clarify, the first amount is the original lien withdraw to invest in the first investment vehicle (IRA), the second amount is the fee paid to the service provider on the first investment. The third amount is an additional separate draw

(line of credit draw or new equity lien) on the underlying property asset, in order to invest in a different investment vehicle (securities, annuity, savings, etc...) ((Alt) Col 2 lines 37-41) and the fourth amount is the fees associated with the second or other financial investment vehicles that are purchased from the third amount. Official Notice is taken that it is well known for banks such as Wamu who provides one stop shop services to earn a finance charge (interest rate) when they provide liens and charge fees when providing services for purchasing investment vehicles as an agent for the person. It is also common for fees to be taken for each separate investment product. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a known technique to a known method to yield predictable results.

In reference to Claim 35:

(New) A method of generating, for the benefit of a person and a service provider, periodic payments dependent upon equity in property of the person, said method being implemented on a computer based system ((Alt) Abstract) comprising at least one program running on a corresponding at least one computer platform, the method comprising the steps of:

(a) obtaining from a financier a loan secured by the equity, the loan having a principal value and being for a term defined by a number of periods((Alt) Col 2 lines 27-29, Col 3 lines 25-30, see tables 1-8);

(b) investing the loan in a first investment vehicle that yields a first return for each said period on the amount invested((Alt) FIG. 2, FIG. 3; Col 6 lines 28-35, 63) ; the method further comprising, for a current said period, the steps of:

(i) withdrawing an interest charge, determined on a simple interest basis with reference to the principal value, and further withdrawing a fixed proportion of the principal value, from the residual of the loan invested in the first investment vehicle((Alt) Col 5 lines 12-23. see Table 8 where borrowed money and interest amortized biweekly, Table 1 where loan balance is negative $50.03);

(ii) paying the interest charge to the financier ((Alt) see tables 1-8 where interest paid in payment)…

…(iv) investing for the benefit of the person the residual of the fixed proportion in an investment vehicle yielding a second return for the current period, said second return being lower than the first return; ((Alt) Col 2 lines 36-44, Col 6 lines 18-35);

(c) repeating the steps (i) - (iv) for said number of periods ((Alt) Fig. 2-4); and

(d) repaying, by the person to the financier at the end of the term, the principal of the loan ((Alt) see table 8)

Alt does not teach:

(iii) deducting a charge from said fixed proportion, said charge comprising the benefit for the service provider;

Wamu and Official notice teach:

(iii) deducting a charge from said fixed proportion, said charge comprising the benefit for the service provider;

Alt and Wamu teach explicitly of equity liens and investment products. Although, Alt does not teach a service provider not deducting a charge from the

fixed proportion for the service provider, Alt does teach various investment vehicles (mutual funds, investment securities, annuities). Wamu teaches a lender which provides equity liens and investment products. Official Notice is taken that it is well known in the industry that providers for investment products charge fees and commission. It is also well known in the industry for the fees charged by the investment serving entity to be deducted from the earnings or earning and principal of the client's investment product.

16. Claims 9-10 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt), in view of US Pub No. 2003/0154161 A1 by Stahl et al. (Stahl) and in view of Official Notice as applied to claim 7 above, and further in view of WAMU.com (Wamu) as annotated by examiner and herein referred to as (AE).

In reference to Claim 9:

The combination of Alt, Stahl and Official Notice teach:

(Original) A method according to claim 7 (see rejection of claim 7 above), wherein the steps (a) - (e) ...and the step (e) is performed by the person ((Alt) Col 6 lines 14-28)

The combination of Alt, Stahl and Official Notice do not teach:

...are performed by a second provider...

Wamu teaches:

...wherein the steps (a) - (e) are performed by a second provider ((Wamu) (AE) pg. 2 sec 1)...

The combination of Alt, Stahl and Official Notice and Wamu are directed toward loans and investment vehicles. As Wamu offers both products it would have been obvious to one of ordinary skill in the art at the time of the invention to combine prior art elements according to known methods.

With respect to the limitation "second provider", Official notice is taken that it is common for equity liens to be held by a bank or financial entity separate than the first lien holder. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to consider a separate provider for an equity lien other than the first lien holder.

In reference to Claim 10:

(Original) A method according to claim 9 (see rejection of claim above), wherein the amounts paid in the steps (b) and (c) are drawn from the residual of the loan and the amount received in the step (d) is paid into the residual of the loan ((Alt) FIG. 2-3; see Table 1-8, where last row at 25 years, saving from IRA investment is grater than loan and mortgage balance being paid off, e.g table 1, IRA savings $24,433.96 loan ($50.03));

In reference to Claim 15:

The combination Alt, Stahl, Wamu and Official Notice teach:

A method according to claim 9 (see rejection of claim 9 above),...

The combination Alt, Stahl and Official Notice do not teach:

...wherein the profit derived by the second provider is drawn from the residual of the loan

Wamu and Official Notice teach:

...wherein the profit derived by the second provider is drawn from the residual of the loan ((Wamu) (AE) pg. 2 sec 1)

Although the combination does not teach explicitly of the second provider deriving a profit from the residual of the loan, the combination teaches Wamu providing a second equity lien and Official Notice is taken that banks earn a profit when they provide liens with interest charges and teaches Wamu providing the investment product which Official notice is taken that financial entities that provide investment product commonly charge fees. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply a known technique to a known method to yield predictable results.

In reference to Claim 16:

A method according to claim 7 (see rejection of claim 7 above), wherein the person is one of a natural person and a legal entity ((Alt) Col 6 lines 15-28)

In reference to Claim 17:

The combination Alt, Stahl, Wamu and Official Notice teach

A method according to claim 7 (see rejection of claim 7 above),...

The combination Alt, Stahl, Wamu and Official Notice do not teach:

...wherein the person is a retiree and the property of the retiree is the home of the retiree...

Although the combination Alt, Stahl, Wamu and Official Notice do not teach the persons as being a retiree, the combination is explicitly directed toward retirement savings and investments. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to try by choosing from

a finite number of identified, predictable solutions with a reasonable expectation of success. With respect to the limitation of the property being that of a retiree, if a retiree was the person utilizing the prior art teaching inherently the property would have been a retiree property.

17. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,689,649 by Altman et al. (Alt), in view of US Pub No. 2003/0154161 A1 by Stahl et al. (Stahl), in view of Official Notice in view of WAMU.com (Wamu) as annotated by examiner and herein referred to as (AE).as applied to claims 7 and 9 above, and further in view of US Pub No. 2005/0262002 A1 by Manning et al. (Man).

In reference to Claim 11:

The combination of Alt, Stahl, Official Notice and Wamu teach:

(Original) A method according to claim 9 (see rejection of claim 9 above), wherein: ... and the compound rate of return is in a range of 7.5% and 12.0% of the residual of the loan that is invested in the investment vehicle ((Alt) FIG. 2, FIG. 3, Col 6 lines 28-33, 63 where borrowed money is invested in IRA at interest rate of 8.5% which grows at compound interest; Examiner takes Official Notice that IRA can have range of investment choices).

The combination of Alt, Stahl, Official Notice and Wamu teach

...the loan is less than or equal to 45% of the equity in the property of the person; the first fixed proportion is in a range of 4.0% and 5.5%; the second fixed proportion is in a range of 7.5% and 12.0%; ...

Manning and Official Notice teach:

...the loan is less than or equal to 45% of the equity in the property of the person;...((Man) FIG. 2, FIG. 7, para 0023 lines 16-21, para 0078 lines 5-10, para 0079 lines 2-3); the first fixed proportion is in a range of 4.0% and 5.5%; the second fixed proportion is in a range of 7.5% and 12.0% (Official Notice is taken:

With respect to the rate of 4% to 5.5% on fixed first portion Official Notice that it well known for rates on a first lien to be lower than on a second. First liens have higher equity liquidity and secondary markets purchase 1st liens more readily. Additionally, although Alt teaches an interest rate of 11.5%, Official Notice is taken that rates change according to market offers at the time, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the relative interest rates available with respect to the first and second equity liens.) Therefore, with respect to the respective rates to the respective lien positions, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply know techniques to a known method for improvement of yielding predictable results.

Both Alt and Man teaches explicitly of investing with the users equity assets ((Man) para 0023 lines 16). Man teaches calculating the risk tolerance for the investment, with the percentage of the underlying assets ratio determined by the risk factor. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include in the teaching of Alt, the teachings of Man to determine the percentage of asset equity invested in the investment product in order to adjust market exposure to a level of risk.

With respect to the limitation the second lien proportion is in a range of 7.5% and 12.0%, Official Notice is taken that it is well known in the art for second liens to be offered at higher interest rates than are first lien. Second rate interest rates reflect the higher risk factors for the lender and the second position to the liquidity of the asset and the attractiveness of the lien to the secondary market.

In reference to Claim 12:

A method according to claim 9 (see rejection of claim 9 above), comprising the further step of: (g) charging the person, in regard to each said periodic payment, a charge equal, to a third fixed proportion of said each said periodic payment ((Alt) Col 6 lines 28-33) (see 112, second paragraph rejection for examiner's definition of "third ...portion").

In reference to Claim 13:

A method according to claim 12 (see rejection of claim 12 above), wherein the third fixed proportion is in a range of 0.05% and 0.25% ((Alt) Col 2 lines 37-44, Col 6 lines 28-33).

Although, does not disclose a specific range for the third fixed portion, Alt does teach combinations of investment products receiving funds from equity asset, which inherently consist of different percentage ranges, therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to obvious to try by choosing from a finite number of identified, predictable solutions with a reasonable expectation of success.

In reference to Claim 14:

The combination of Alt, Stahl, Official Notice and Wamu teach:

A method according to claim 12 (see rejection of claim 12 above) wherein the profit derived by the second provider ((Wamu) pg. 2 sec 1), comprises the charge levied in the step (g) ((Alt) FIG. 2-4; Col 5 lines 11-55)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pub No. 2005/0044024 A1 by Davis III is cited for teaching Tax-deferred liquidity to owners of highly concentrated positions securities. US Patent No. 5,903,879 by Mitchell is cited for managing a loan for funding a pension. US Patent No. 5,742,775 by King is cited for being directed toward creating financial instruments with an adjustable rate mortgage. US Patent No. 5,987, 436 by Halbrook is cited for teach a base loan amount used for investment products. US Pub No. 2003/0191702 A1 by Hurley is cited for teaching an asset backed debt consolidation product. US Pub No. 2007/0118451 A1 by Schneider for teaching an investment method utilizing as an underlying asset equity mortgage or equity line of credit. US Patent number 6,012,047 by Mazonas et al is cited for teaching a reverse mortgage loan where proceeds are used to invest in financial instruments. US 2007/0288362 A1 by Pollock, III et al. is cited for being directed toward a Financial vehicle which utilizes a loan as an underlying asset. US Pub No. 2006/0200406 A1 is cited for teaching a seeded loan investment product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY GREGG whose telephone number is (571)270-5050. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 5712726712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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MMG

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